

## REMARKS

Claims 1 to 18 are pending in the application. Claims 1 to 18 were rejected. Applicants respectfully traverse the rejections for at least the following reasons.

### **In the Drawings:**

FIG. 4 has been amended to reflect the text of the Specification. No new matter has been added. REPLACEMENT FIG. 4 is attached.

### **Claim Rejection Under 35 U.S.C. § 102(b):**

Claims 1 to 18 were rejected under 35 U.S.C. § 102(b) based upon alleged public use or sale of the invention with reference to the “2000 Development Requests at HERTUG (Higher Education and Research Institutions)” [*sic*] as seen at <http://web.mit.edu/her/devreq/votedevreq00.htm> (“HERUG reference”) at item 7.

The Supreme Court has established a two-part test for determining whether an invention is subject to the on-sale bar under §102(b). In order for the on-sale bar to apply, (1) the invention must be the subject of a commercial offer for sale, and (2) the invention must be ready for patenting. *Pfaff v. Wells Electronics, Inc.*, 525 U.S. 55, 67, 119 S. Ct. 304, 311-12, 48 U.S.P.Q.2d 1641, 1646-47 (1998). In the absence of either of these prongs, the on-sale bar does not apply. Since the Office Action does not even mention either of these prongs, the Office has not established a *prima facie* case for the on-sale bar.

Furthermore, the HERUG reference does not even suggest that the *claimed invention* was on sale more than one year prior to the filing date of the present application. Item seven of the HERUG reference includes a brief description of 3 then-current RIB rules, along with a request for a change as to how the 3 RIB rules work. However, the mere use of flexible budgets and RIB rules is discussed in the background section of the present application. Nothing in the description of these 3 RIB rules, nor the requested changes, reflects the specific features of the claimed invention.

**In contrast**, independent claim 1 of the present invention recites executing a RIB rule to determine an increase to an expenditure budget, storing the budget increase in an identified node of an expenditure budget data structure, and also storing the budget increase in an identified node of a revenue budget data structure. Independent claims 6 and 14 recite similar

limitations. Neither the RIB rule description nor the requested changes listed in the HERUG reference disclose or even suggest these limitations. Independent claims 4 and 17 recite retrieval of expenditure budget values and revenue budget values from storage, generation of a report that compares the expenditure budget values and the revenue budget values, where the report template indicates whether values from revenue budget items generated according to RIB rules are to be included in the report. These limitations are not disclosed or suggested in the RIB rule description or requested changes listed in the HERUG reference, either. Accordingly, the HERUG reference fails to suggest in any way that the claimed invention was in public use or on sale more than 1 year before the filing date of the present application.

Applicants respectfully submit that the present invention was not in public use or on sale more than one year before the date of invention, and respectfully request that the Examiner withdraw the rejection based on alleged public use or sale.

**Claim Rejections Under 35 U.S.C. § 103(a):**

Claims 1, 4, 6, 14, and 17 are rejected under 35 U.S.C. §103(a) as being unpatentable over a PowerPoint® slide presentation regarding, Introduction to Management Accounting 12/e, Horngren/Sundem/Stratton, 2002, Prentice Hall Business Publishing (“Prentice”).

To establish a *prima facie* case of obviousness, the Examiner must show, *inter alia*, that there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references, and that, when so modified or combined, the prior art teaches or suggests all of the claim limitations. M.P.E.P. §2143. As discussed below, the Office Action fails to show how the cited prior art teaches or suggests all of the elements of the rejected claims and, therefore, has not established a *prima facie* case of obviousness.

**Claims 1, 6, and 14:**

The Office Action rejected claims 1, 6 and 14 because Prentice generally discusses static and flexible budgets, and the accounting practice of analyzing and classifying variance, and “[t]herefore, it would be obvious, at the time of the invention, to a person of ordinary skill in the art to determine that variance analysis and the classification of that variance in accordance with an organization’s Standard Operating Procedure regarding variance is similar in function to the analysis conducted via a RIB rule.” Even if Applicants were to agree that identifying budget variance is the same function as an analysis conducted via a

RIB rule (however, Applicants respectfully do not agree), the Office Action does not explain how Prentice allegedly teaches all elements of the claimed invention.

Claim 1 of the present invention recites executing a RIB rule to determine an increase to an expenditure budget, storing the budget increase in an identified node of an expenditure budget data structure, and also storing the budget increase in an identified node of a revenue budget data structure. Claims 6 and 14 recite similar limitations. Prentice utterly fails to disclose, teach or suggest “storing the budget increase in an identified node of an expenditure budget data structure” or “storing the budget increase in an identified node of a revenue budget data structure.” Since Prentice does not disclose, teach or suggest updating both budgets, Applicants respectfully request that the Examiner withdraw the obviousness rejection of claims 1, 6 and 14.

**Claims 4 and 17:**

Claims 4 and 17 are rejected as obvious over Prentice because it allegedly would have been obvious “to determine that variance analysis and the classification of each variance according to the business accounting rules regarding which variances are classified in a manner which will result in the increase of an item or account in an organization’s flexible budget is functionally equivalent to Applicant’s invention.” Notwithstanding the conclusory effort to equate the discussion in Prentice with the RIB rule analysis of the claimed invention (and Applicants do not agree that they are equivalent), this does not explain how Prentice allegedly discloses, teaches or suggests every feature of the claimed invention. Claims 4 and 17 recite retrieval, in response to a report template, of expenditure budget values and revenue budget values from storage, generation of a report that compares the expenditure budget values and the revenue budget values, where the report template indicates whether values from revenue budget items generated according to RIB rules are to be included in the report. Prentice does not disclose, teach or suggest retrieving expenditure budget values and revenue budget values from storage in response to a report template, or generating a report where values from *revenue budget* items, generated from RIB rules, are included based on template selections. Accordingly, Applicants respectfully request that the Examiner withdraw the obviousness rejection of claims 4 and 17.

**Claims 2, 3, 5, 7, 8, 9, 15, 16, and 18:**

Claims 2, 3, 5, 7, 8, 9, 15, 16, 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Prentice in view of U.S. Patent No. 6,073,108 to Peterson (“Peterson”). Claims 2, 3, 5, 7, 8, 9, 15, 16, and 18 ultimately depend from one of independent claims 1, 4, 6, 14, or 17, and are therefore nonobvious and allowable over Prentice for at least the same reasons discussed above. Separately and independently, each of these dependant claims should be allowable because the combination of Prentice and Peterson do not disclose, teach or suggest the additional claim elements discussed below.

-- Neither Prentice nor Peterson, alone or in combination, disclose, teach or suggest “revenue budget increases are stored with a marking that they are to be excluded from RIB calculations for expenditure budget items,” as recited in claims 2 and 15.

-- Neither Prentice nor Peterson, alone or in combination, disclose, teach or suggest “comparing the expenditure budget data structure and the revenue budget data structure to determine if values therein are in balance,” as recited in claims 3 and 16.

-- Neither Prentice nor Peterson, alone or in combination, disclose, teach or suggest “each [revenue budget] item including a marker to indicate whether the revenue budget item was generated according to a RIB rule,” as recited in claims 5 and 18.

-- Neither Prentice nor Peterson, alone or in combination, disclose, teach or suggest an expenditure or revenue “budget database [which] stores the budget item in a location identified by a RIB rule,” as recited in claims 7 and 8, respectively.

-- Neither Prentice nor Peterson, alone or in combination, disclose, teach or suggest “a first component to store planned revenue budget values and a second component to store budget increases generated from RIB rules,” as recited in claim 9.

Accordingly, the obviousness rejection of claims 2, 3, 5, 7, 8, 9, 15, 16, 18 should be withdrawn.

**Claims 10, 11, 12, and 13:**

Claims 10, 11, 12 and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Prentice in view of Peterson. Claims 10 to 13 ultimately depend from independent claim 6. Since Peterson does not cure and is not asserted to cure the deficiencies of Prentice with regard to independent claim 6 as explained above, claims 10 to 13 are allowable for at least the same reasons discussed above, and withdrawal of the rejection of those claims is respectfully requested.

Applicants respectfully submit that all pending claims 1 to 18 are in condition for allowance, and respectfully request the withdrawal of the rejections of and/or objections to those claims.

### **CONCLUSION**

Applicants assert that all of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. §1.16 or §1.17 to Kenyon & Kenyon Deposit Account No. **11-0600**.

The Examiner is invited to contact the undersigned at the telephone number below to discuss any matter concerning this application.

Respectfully submitted,

Date: January 18, 2008

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